



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

WILLIAM D STRINDEN MD PA

**Respondent Name**

DEEP EAST TEXAS SELF INSURANCE

**MFDR Tracking Number**

M4-07-8033-01

**Carrier's Austin Representative**

Box Number 44

**MFDR Date Received**

August 9, 2007

### **REQUESTOR'S POSITION SUMMARY**

**Requestors Position Summary:** The requestor did not include a position summary with the DWC060 request.

**Amount in Dispute:** \$5.50

### **RESPONDENT'S POSITION SUMMARY**

**Respondents Position Summary:** "Dr. William Strinden is not the Treating Doctor. Dr. Gary Randall is the Treating Doctor as acknowledged by Dr. Strinden on the DWC060. Texas Labor Code Section 408.041 (c) [sic] requires the Treating Doctor and the insurance carrier send a copy of all medical records to the Designated Doctor. As Dr. Strinden is not the Treating Doctor he was not responsible for providing any medical records to the Designated Doctor. The records were to be provided by the Treating Doctor and the insurance carrier, therefore Dr. Strinden's service on 2/16/07 was not reasonable and necessary."

**Response Submitted by:** Risk Management Services

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 16, 2007	99080	\$5.50	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
3. Sec. 408.0041 sets out the laws for designated doctor examinations.
4. Sec. 408.025 sets out the laws for reports and records required from health care providers.
5. Sec. 148.14 sets out the rules Burden of Proof.
6. 28 Texas Administrative Code Section 19.2008 sets out the rules for Utilization Review Agent Contact with and Receipt of Information From Health Providers.
7. 28 Texas Administrative Code Section 134.120 sets out the rules for Reimbursement for Medical Documentation.

8. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 50 – These are non-covered services because this is not deemed a medical necessity by the payer.
- 4 – The procedure code is inconsistent with the modifier used or a required modifier is missing.
- 97 – Payment is included in the allowance for another service/procedure.

## **Findings**

1. The Medical Fee Dispute Resolution (MFDR) received the DWC060 on August 9, 2007. The date of service in dispute is 2/16/2007. Per 28 Texas Administrative Code Section 133.307 the dispute was submitted timely and eligible for review.
2. Per 28 Texas Administrative Code Section 133.307(e) (2) “MDR Action. The Division will review the completed request and response to determine appropriate MDR action....Issues Raised by the Division. The Division may raise issues in the MDR process when it determines such an action to be appropriate to administer the dispute process consistent with the provisions of the Labor Code and Division rules.”
3. Review of the Requestor’s Rational for Increased Reimbursement noted on the DWC060 Table of Disputed Services, indicates the following, “we sent copies of patient’s medical record to a disability examining doctor. According to rule 134.210 insurance company should reimburse @ 50¢ page 11 pages were sent so proper reimbursement should be \$5.50. Patient had her disability exam on 2-22-2007.”
4. Sec. 408.0041. DESIGNATED DOCTOR EXAMINATION, states, “(c) The treating doctor and the insurance carrier are both responsible for sending to the designated doctor all of the injured employee’s medical records relating to the issue to be evaluated by the designated doctor that are in their possession. The treating doctor and insurance carrier may send the records without a signed release from the employee. The designated doctor is authorized to receive the employee’s confidential medical records to assist in the resolution of disputes. The treating doctor and insurance carrier may also send the designated doctor an analysis of the injured employee’s medical condition, functional abilities, and return-to-work opportunities.
5. Sec. 408.025. REPORTS AND RECORDS REQUIRED FROM HEALTH CARE PROVIDERS, states, “(a) The commissioner by rule shall adopt requirements for reports and records that are required to be filed with the division or provided to the injured employee, the employee’s attorney, or the insurance carrier by a health care provider. (b) The commissioner by rule shall adopt requirements for reports and records that are to be made available by a health care provider to another health care provider to prevent unnecessary duplication of tests and examinations. (c) The treating doctor is responsible for maintaining efficient utilization of health care. (d) On the request of an injured employee, the employee’s attorney, or the insurance carrier, a health care provider shall furnish records relating to treatment or hospitalization for which compensation is being sought. The division may regulate the charge for furnishing a report or record, but the charge may not be less than the fair and reasonable charge for furnishing the report or record. A health care provider may disclose to the insurance carrier of an affected employer records relating to the diagnosis or treatment of the injured employee without the authorization of the injured employee to determine the amount of payment or the entitlement to payment.
6. Per Sec. 148.14. Burden of Proof, states in part, “...The burden of proof rests with the party seeking relief in hearings conducted pursuant to the Act, §§408.024, 413.031, and 413.055.....”
7. Per 28 Texas Administrative Code Section 19.2008 titled “Utilization Review Agent Contact with and Receipt of Information From Health Providers” contain subsection (b) that requires a workers’ compensation insurance carrier to reimburse health care providers for the reasonable costs of providing written medical information “...pursuant to Chapter 133, Subchapter B of this title [Title 28 TAC] (emphasis added).” The current, applicable rule, summarized in the following numbered paragraph, is one of the rules “...that consolidate reimbursement methodologies and miscellaneous reimbursement amounts previously located in both Chapter 133 and 134 to Chapter 134.” Volume 31 *Texas Register* 3561 (April 28, 2006).
8. Per 28 Texas Administrative Code Section 134.120 titled Reimbursement for Medical Documentation, outlines when the Requestor is entitled to reimbursement;
  - (b) An insurance carrier shall separately reimburse subsequent copies of medical documentation requested by the insurance carrier in accordance with §133.210 of this title.
  - (c) Upon request, the health care provider shall provide the injured employee, or the injured employee’s representative, an initial copy of the medical documentation without charge. The requestor shall reimburse the health care provider for subsequent requests of the same medical documentation.
  - (d) If the injured employee, or the injured employee’s representative, requests creation of medical documentation, such as a medical narrative, the requestor shall reimburse the health care provider for this additional information.

9. Per 28 Texas Administrative Code Section 134.120 Reimbursement for Medical Documentation, defines narrative reports;
- (g) Narrative reports are defined as original documents explaining the assessment, diagnosis, and plan of treatment for an injured employee written or orally transcribed and created at the written request of the insurance carrier or the Division. Narrative reports shall provide information beyond that required by prescribed medical reports and/or records. A narrative report should be single spaced on letter-size paper or equivalent electronic document format. Clinical or progress notes do not constitute a narrative report.
10. Because the above referenced rules, applicable to this case, require insurance carrier reimbursement only for subsequent copies of medical documentation requested by the insurance carrier and the Requestor has not provided any evidence that the copies of the medical documentation it provided were "subsequent copies," the Requestor is not entitled to reimbursement for the CPT code 99080.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	January 15, 2015
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**